

National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL
Advice Memorandum

DATE: July 10, 1998

TO: Rochelle Kentov, Regional Director, Region 12

FROM: Barry J. Kearney, Associate General Counsel, Division of Advice

SUBJECT: Teamsters Local 385 and International Teamsters, Cases 12-CB-4411; 4423; 4424; and 4430

536-5050-6730

These Section 8(b)(1)(A) cases were submitted for advice on whether the International Union's Constitution contains an unlawful restriction on resignation.

Article II, Section 2(h) of the Constitution provides:

No member seeking to resign from membership in any Local Union may do so except by submitting such resignation in writing to the Secretary-Treasurer of the Local Union. Any member who resigns before he has paid all dues, assessments, fines and other financial obligations owing to any subordinate body shall be obligated to pay such obligations to his former Local Union. All members acknowledge that any obligations owing at the time of resignation shall be collectible by the Local Union in any appropriate forum. This shall not relieve any member of any obligation to comply with any other provision of this Constitution regarding acquisition or maintenance of membership in good standing.

The Charging Party argues that this provision is unlawful because it is ambiguous, viz., the introductory sentence requires members to "submit" resignations implying that the Union may reject such resignations.⁽¹⁾

We conclude, in agreement with the Region, that the instant provision does not ambiguously imply that the Union may reject resignations and thus is not arguably unlawful.

The instant provision, read as a whole, clearly allows members to resign. The second and third sentences provide, respectively: "Any member who resigns before he has paid", and "All members acknowledge that any obligations owing at the time of resignation ..." (emphasis added). Read as a whole, therefore, this provision merely notifies members that they may resign but that they continue to be responsible for all financial obligations incurred prior to their resignation. Accordingly, the Region should dismiss this allegation, absent withdrawal.

B.J.K.

¹ Compare Newspaper Guild of New York, Local 3 (New York Daily News), Case 2-CB-13806, Advice Memorandum dated September 30, 1998. But see also the later modifying Advice Memorandum in that case, dated November 30, 1992, authorizing settlement absent any allegation that the restriction on resignation there was ambiguous and therefore unlawful on its face.. This later Advice memorandum noted that (1) the case presented "a close question" since the restriction was "only arguably unlawful because it is ambiguous"; and (2) authorized settlement absent that allegation because the case also involved a procedural obstacle arising from a prior settlement agreement.